



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUL 26 2019

John W. Kern  
AJ Kern for Congress  
P.O. Box 503  
Houghton, MI 49931

RE: MUR 7564  
AJ Kern for Congress  
and John W. Kern, as treasurer

Dear Mr. Kern:

On February 7, 2019, the Federal Election Commission ("Commission") notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On July 24, 2019, based upon the information contained in the complaint, the Commission decided to dismiss allegations that AJ Kern for Congress and you, in your official capacity as treasurer, violated provisions of the Act. The Commission then closed its file in this matter. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). If you have any questions, please contact Kristina Portner, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

A handwritten signature in black ink, appearing to read "J. S. Jordan".

BY: Jeff S. Jordan  
Assistant General Counsel

Enclosure:  
General Counsel's Report

**BEFORE THE FEDERAL ELECTION COMMISSION**

**ENFORCEMENT PRIORITY SYSTEM  
DISMISSAL REPORT**

**MUR: 7564**

**Respondents:** AJ Kern for Congress  
and John W. Kern, as Treasurer  
("Committee")

**Complaint Receipt Date:** February 5, 2019

**Response Date:** No Response Received

**EPS Rating:**

**Alleged Statutory**

**52 U.S.C. § 30104(a)(2)(i)-(ii)**

**Regulatory Violations:**

**11 C.F.R. §§ 104.5(a)(2)**

The Complaint alleges that the Committee should have, but did not, file a 2018 Pre-General Report or a 2018 Post-General Report because AJ Kern asked the Minnesota Secretary of State to count any general election write-in votes she received.<sup>1</sup>

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the fact that the Committee's reports show that its disbursements and expenditures were all in connection with the primary election, and the relatively modest amount raised and spent by the committee

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<sup>1</sup> Compl. at 1 (Feb. 5, 2019). The Committee did not respond to the Complaint.

during the 2018 election cycle,<sup>2</sup> we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file and send the appropriate letters.

Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Acting Associate General Counsel

6.26.19  
Date

BY: Stephen Gura  
Stephen Gura  
Deputy Associate General Counsel

Jeff S. Jordan  
Jeff S. Jordan  
Assistant General Counsel

Heather McGuire  
Heather McGuire  
Legal Intern

<sup>2</sup> According to its 2018 Year-End Report, the Committee's receipts (\$15,936.83) and expenditures (\$16,925.51) amounted to \$32,862.34 for the election cycle. Pursuant to Standard 4 of the Reports Analysis Division's Review and Referral Procedures for the 2017-2018 Election Cycle, only those committees with receipts and expenditures combined exceeding \_\_\_\_\_ will be referred to the Office of General Counsel or Alternative Dispute Resolution Office for late or missing reports.